

UTAH APPRAISER LICENSING AND CERTIFICATION BOARD
HEBER M WELLS BUILDING
Room 250
9:00 a.m.
June 24, 2020
Google Meet

MINUTES

DIVISION STAFF PRESENT:

Jonathan Stewart, Division Director
Justin Barney, Hearing Officer
Kadee Wright, Chief Investigator
Joy Natale, Real Estate Analyst
Maelynn Valentine, Board Secretary
Kendell Christiansen, Licensing Specialist
Mark Fagergren, Licensing/Education Director
Desha Pages, Licensing Specialist
Stephen Gillies, Assistant Attorney General

BOARD MEMBERS PRESENT:

Jeffrey T. Morley, Chair
Richard Sloan, Board Member
Keven Ewell, Vice Chair
Jim Bringhurst, Board Member
John Ulibari, Board Member

The June 24, 2020, meeting of the Appraiser Licensing and Certification Board began at 9:13 a.m. with Vice Chair Keven Ewell conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes –

A motion was made and seconded to approve the May 27, 2020 minutes. Vice Chair Ewell, yes; Board Member Bringhurst, yes; Board Member Ulibari, yes; Board Member Sloan, yes. The motion passes.

Public Comment Period

No public Comment

John Ulibarri addresses the board and staff and expresses his gratitude on being a part of the Appraiser Licensing and Certification Board. He has enjoyed his 8 years on the board and will miss working with such great people. He commended the professionalism of his fellow board members and the Division staff.

DIVISION REPORTS

DIRECTOR'S REPORT – Jonathan Stewart

Director Stewart reported on the status of the Division. The Division office remains closed to the public. The Division has decided that fingerprinting will be waived through the end of July for renewal applicants. Decision's for fingerprinting is being discussed on a month-by-month basis. The Division of Real Estate is currently working with the Department of Occupational and Professional Licensing and the Utah Health Department to come up with a plan to be able to resume fingerprinting in the future.

The Division was updated last week regarding the budget cuts for the state. Each department had to submit a proposal to the Legislature for a 2, 5 and 10% cut. The Division's budget has been cut by \$950,000. The Division has been discussing ways to deal with the budget shortfall and trying to avoid layoffs.

Director Stewart thanks board members John Ulibarri and Jim Bringhurst for their service on the board, this will be their last month on the board. The replacement for John Ulibarri has received full confirmation, his name is Kris Poulson. Last week Ben Brown received full Senate confirmation to replace Jim Bringhurst. Elections will be held at the July meeting to vote on Chair and Vice-Chair.

Director Stewart reported that he has been working with Kadee Wright and Judith Jensen and has completed the process with purchasing on setting up a Contract Appraisal System for the Division investigations. The Division had seven appraisers apply to become contract appraisal reviewers, 3 were approved. Among the approvals are Steven Albert and Vern Myer. Board member Sloan asked if it would be a conflict of interest to be a contract appraisal reviewer. Director Stewart informed him that it would be a conflict of interest, but once he is off the board he could apply.

ENFORCEMENT REPORT – Kadee Wright

Ms. Wright reported that the Division is looking forward to the Contact Appraisal Review team. The timing is great as Craig Livingston is retiring as an Appraisal Investigator in July. Ms. Wright expresses her gratitude to Craig and all of his work for the Division.

Ms. Wright reported that in May the Division received one complaint; closed zero case; leaving 27 appraisal cases open with the Division. There are two cases pending with the AG's office.

Stipulation

Consolidated Analytics -Presented by Joy Natale
Coester VMS-Presented by Judith Jensen

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren thanks board members Ulibarri and Bringhurst for their service on the board for the last eight years.

Mr. Fagergren reported on statistics. There has been an increase of 24 appraiser trainees from the beginning of the year. There has been a net increase of two licensed appraisers, seven certified residential appraisers and eight certified general appraisers.

Mr. Fagergren reported there were seven candidates approved by both the education and experience review committees for exams.

- Jonathon Dunn; approved to sit for the licensed appraiser exam.
- Rashelle Kartchner; approved to sit for the licensed appraiser exam
- Brenna Hayes; approved to sit for the certified residential appraiser exam.
- Mike Gatherum; approved to sit for the licensed appraiser exam

There was one candidate that was recommended to be denied by the Experience Review Committee.

- Kaycee Pierson; denied to sit for the licensed appraiser exam

‘Yes’ answers approved by Division Representatives.

- Farhood Samini
- Thomas Bogdon

Mr. Fagergren reported that the Appraisal Qualification Board and the Appraisal Sub Committee has authorized the temporary exemption for distance education requirements for appraisers to allow live virtual education. The industry has seen an increased number of attendees of educational courses via Google Meet or Zoom. The exemption has been extended through the end of July to allow courses to be taught in a live virtual format.

BOARD AND INDUSTRY REPORT- Justin Barney

Mr. Barney reported on the proposed rule amendment that was filed, it has been published and public comment period has been extended through June 15, 2020. The proposed rule amendment can become affective if the board determines to do so. There was public comment received from REVAA which was sent to board members for their consideration prior to the meeting. REVAA is a national association of AMC's. It monitors much of the proposed statutes and rule amendments throughout the United States. REVAA has expressed some concerns about the proposed rule amendment and have asked that it be withdrawn.

Vice Chair Ewell comments that he has read REVAA's comments including concerns regarding trainees signing the appraisal report and that the proposed restrictions are unfair and violate USPAP because trainees are not appraisers. Vice Chair Ewell disagrees with them on this point as trainees may sign the certification to verify all they have done, along with the supervisor's signature. REVAA's second objection was because it might interfere with the distinction between inspection assignments vs.

appraisal assignments. If someone who is not an appraiser inspects a home, then how that is distinguished.

Mr. Barney reports that there are four objections from REVVA and they are:

- Comment 1: R162-2g-502a(4) - Allowing appraiser trainees to sign a certification taking full responsibility for the entire content of an appraisal report when they provided significant appraisal assistance is not only unfair, it is inconsistent with USPAP. As a result, we strongly recommend the proposed amendment be withdrawn for further evaluation.
- Comment 2: R162-2g-502a(8) - The definition clearly establishes that appraisal assignment results are exclusive to an appraiser; therefore, anything communicated by a non-appraiser would not constitute appraisal assignment results. The “Comment” in the definition also underscores that physical characteristics are not assignment results. Therefore, as stated above, the content of USPAP renders this proposed amendment as unnecessary and redundant. We strongly recommend this proposed amendment be withdrawn for further evaluation.
- Comment 3: R162-2g-502a(8) - Non-appraisers who perform inspection assignments arguably may not fall under the regulatory supervision of the Division. Yet, placing the proposed restriction within the appraiser rule, which only covers appraisers, gives the impression that a non-appraiser who performs an inspection assignment in support of an appraisal assignment and expresses any opinion about property condition (e.g., a condition rating or rubric) may be acting as an appraiser in violation of Utah law. Is the provision intended to prohibit non-appraisers from providing their analysis, opinions or conclusions when communicating the results of an inspection assignment? If so, what happens if they do? Might enforcement actions be brought against them? Is there statutory authority for such actions? Could an appraiser who relies on an inspection report provided by a non-appraiser, but independently evaluates the credibility of the inspection, be held accountable for such activity? Due to these and other questions, the proposed amendment could create confusion and angst for both appraisers and non-appraisers. Therefore, we strongly recommend this proposed amendment be withdrawn for further evaluation. We believe that appropriately educating Utah appraisers would be a far better alternative. REVAA would be happy to assist in developing an educational campaign for this purpose. We note that a number of states have provided guidance on hybrid appraisals, including [California](#), [North Carolina](#), and [Virginia](#).
- Comment 4: R162-2g-502a(8) - We would be remiss not to mention that based on a plain reading of the proposed rule, we believe it would dramatically impact an appraiser’s ability to perform assignments under the [GSE guidance](#) regarding COVID appraisals in Utah (which has been extended through at least July 31, 2020). The revised certifications for permitted COVID assignments allow an appraiser to rely on information from third-party sources, including homeowners, and we have observed homeowners providing all types of information to appraisers, including photos, physical characteristics, and opinions about the property. The proposed rule prohibits homeowners from providing any information other than physical characteristics and subjects them to penalty if they provide such information (and possibly the appraiser if he/she receives such information). This is another example why we believe it is important to pause adoption of the proposed rule to allow for further dialogue.

Chair Morley addresses each objection in order and begins with the trainees being allowed to sign the appraisal report. He states that trainees are not compelled to sign the report, this simply gives the trainee the option to sign, if or when appropriate. Mr. Barney explains that the trainee signs the appraisal report to qualify for experience points when they try to qualify for licensure or certification. Mr. Fagergren points out that it was the board’s decision that trainees should be limited to only reporting on factual information on an appraisal report, so that is the reason for their signature. If the trainee

has completed a majority of the work then they should sign, but they are not compelled to do so.

Chair Morley addresses the board asking if they have any concerns or reservations allowing a trainee to sign the appraisal report. All board members agree that they should be able to sign the report. Regarding the inspection issue, Chair Morley asks board members their concerns, if any. Board member Bringhurst explains that the amendment was created by design so that the non-licensed appraiser only report factual information was a deliberate decision. Vice Chair Ewell can see why they are opposed to it, because AMC's are the organization pushing for the bifurcated appraisals to be able to have non appraisers do the work, as its less expensive to the consumer and potentially more expensive to society in the long run. Chair Morley explains that all board members have reviewed and considered all of the comments and objections that REVAA submitted. After having reviewed the comments submitted there is not a significant re-think from members of the board.

Mr. Barney provides options for the board as the public comment period has ended. The Board has considered the comments. The board may make the proposed rule amendment affective today or tomorrow or they may wait and take action on it at next month's meeting.

A motion was made and seconded to make the proposed rule amendment approved as written with an effective date as Thursday June 25, 2020. Vote Chair Morley, yes; Board Member Sloan, yes; Vice Chair Ewell, yes; Board Member Bringhurst, yes; Board Member Ulibari, yes, with concurrence from the Division. The motion passes.

A motion was made and seconded to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual: Chair Morley, yes; Board Member Sloan, yes; Vice Chair Ewell, yes; Board Member Bringhurst, yes; Board Member Ulibari, yes. The motion passes.

CLOSED TO PUBLIC

An Executive Session was held.

OPEN TO PUBLIC

Mr. Barney stated the Appraisal Board met in executive session to consider the stipulations for Consolidated Analytics and Coester VMS/Brian Coester and the stipulations were approved with concurrence of the Division. The board also considered the recommendations for denial an application to sit for the exam and has accepted an approved the denial of that application, The applicant will be notified by mail.

A motion was made and seconded to adjourn the meeting. Vote: Chair Morley, yes; Board Member Sloan, yes; Vice Chair Ewell, yes; Board Member Bringhurst, yes; Board

Member Ulibari, yes. The motion passes. The meeting adjourned at approximately 10:20 a.m.